

48A C.J.S. Judges § 87

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IV. Standards of Conduct; Restrictions and Prohibitions

A. In General

§ 87. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(2), 21, 24

Appropriate standards of conduct may be established for judges, by canons or codes.

Appropriate standards of conduct for a judge may be set by the State,¹ and in many jurisdictions, courts acting within express or implied powers have adopted or have followed certain canons or codes of judicial conduct.²

While a state constitution may charge the state's highest court with the responsibility of developing and implementing the ethical rules that govern state judges,³ the court has the inherent, as well as the express, authority to prescribe, adopt, promulgate and amend rules prescribing a judicial code of ethics, and a code of regulations and standards of conduct and performances for justices, judges, and magistrates, along with sanctions and penalties for any violation thereof.⁴ It is the constitutional responsibility of such court to fashion judicial discipline in a manner that preserves the integrity and independence of the Judiciary and reaffirms, maintains, and restores public confidence in the administration of justice.⁵

Guidelines for judicial conduct are found both in codes of judicial conduct and in general moral and ethical standards expected of judicial officers by the community.⁶ The codes do not invest judicial powers; they delineate ethical standards for the conduct of judges.⁷ Canons or codes are intended as statements of general principles setting forth a wholesome standard of conduct for judges that will reflect credit and dignity on the profession,⁸ and insofar as the canons or codes proscribe conduct that is *malum in se*, as opposed to *malum prohibitum*, they operate to restate those general principles that have always governed judicial conduct.⁹

CUMULATIVE SUPPLEMENT

Cases:

Judge's consideration of defendant's musical preferences in determining defendant's credibility as to whether he told his attorney he wanted to appeal his life sentence, as would support his motion for out-of-time appeal, was inappropriate negative stereotyping, prohibited by canons of judicial conduct prohibiting judicial bias or prejudice. Sup.Ct.Rules, Rule 601B, Code of Jud.Conduct, Canon 2, Rule 2.3(B). *State v. Smith*, 423 P.3d 530 (Kan. 2018).

[END OF SUPPLEMENT]

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Footnotes

1 Mich.—[Matter of Del Rio](#), 400 Mich. 665, 256 N.W.2d 727 (1977).

2 Ky.—[Alred v. Com.](#), Judicial Conduct Com'n, 395 S.W.3d 417 (Ky. 2012), reh'g denied and opinion modified, (Oct. 25, 2012).

La.—[In re Burgess](#), 85 So. 3d 604 (La. 2012).

W. Va.—[Matter of Hey](#), 192 W. Va. 221, 452 S.E.2d 24 (1994).

3 U.S.—[Butler v. Alabama Judicial Inquiry Com'n](#), 245 F.3d 1257 (11th Cir. 2001), certified question answered on other grounds, 802 So. 2d 207 (Ala. 2001).

4 La.—[In re Burgess](#), 85 So. 3d 604 (La. 2012).

W. Va.—[Matter of Troisi](#), 202 W. Va. 390, 504 S.E.2d 625 (1998).

5 Md.—[In re Lamdin](#), 404 Md. 631, 948 A.2d 54 (2008).

N.J.—[In re Advisory Letter No. 7-11 of Supreme Court Advisory Committee on Extrajudicial Activities](#), 213 N.J. 63, 61 A.3d 136 (2013).

6 N.Y.—[Bartlett v. Flynn](#), 50 A.D.2d 401, 378 N.Y.S.2d 145 (4th Dep't 1976).

7 Ohio—[State ex rel. Allstate Ins. Co. v. Gaul](#), 131 Ohio App. 3d 419, 722 N.E.2d 616 (8th Dist. Cuyahoga County 1999).

8 Mass.—[In re Troy](#), 364 Mass. 15, 306 N.E.2d 203 (1973).

Vt.—[In re Douglas](#), 135 Vt. 585, 382 A.2d 215 (1977).

9 N.Y.—[Matter of Schultz](#), 420 N.Y.S.2d 54 (Jud. Ct. 1978).

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